



Billing Code: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120404257-2692-01]

RIN 0648-BB58

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Snapper-Grouper Fishery off the Southern Atlantic States;
Amendment 18B

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 18B to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 18B), as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, this rule would establish a longline endorsement program for the commercial golden tilefish component of the snapper-grouper fishery; establish initial eligibility requirements for a golden tilefish longline endorsement; establish an appeals process; allocate the commercial golden tilefish annual catch limit (ACL) among gear groups; establish a procedure for the transfer of golden tilefish endorsements; modify the golden tilefish trip limits;

and establish a trip limit for commercial fishermen who do not receive a golden tilefish longline endorsement. The intent of this rule is to reduce overcapacity in the commercial golden tilefish component of the snapper-grouper fishery.

DATES: Written comments must be received on or before [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on the proposed rule identified by "NOAA-NMFS-2012-0177" by any of the following methods:

- Electronic submissions: Submit electronic comments via the Federal e-Rulemaking Portal:
<http://www.regulations.gov>. Follow the "Instructions" for submitting comments.
- Mail: Karla Gore, Southeast Regional Office, NMFS,
263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept

anonymous comments (enter N/A in the required field if you wish to remain anonymous).

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter "NOAA-NMFS-2012-0177" in the search field and click on "search." After you locate the proposed rule, click the "Submit a Comment" link in that row. This will display the comment web form. You can then enter your submitter information (unless you prefer to remain anonymous), and type your comment on the web form. You can also attach additional files (up to 10 MB) in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

For further assistance with submitting a comment, see the "Commenting" section at <http://www.regulations.gov/#!faqs> or the Help section at <http://www.regulations.gov>.

Electronic copies of Amendment 18B may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov/sf/SASnapperGrouperHomepage.htm>.

Amendment 18B includes a draft environmental assessment, an Initial Regulatory Flexibility Act Analysis (IRFA), a Regulatory Impact Review, and a Fishery Impact Statement.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained

in this proposed rule may be submitted in writing to Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; and OMB, by e-mail at [OIRA Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or by fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Karla Gore, Southeast Regional Office, NMFS, telephone: 727-824-5305; email: Karla.Gore@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states includes golden tilefish and is managed under the FMP for the Snapper-Grouper Fishery of the South Atlantic Region. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

Recent amendments to the FMP have imposed more restrictive harvest limitations on snapper-grouper fishermen. In an effort to identify other species to harvest, more fishermen may target golden tilefish. Increased effort for golden tilefish would intensify derby fishing, or the "race to fish," that already exists, which has resulted in a shortened fishing season for the last 6 years. The longline endorsement program would limit participation and reduce overcapacity in the commercial golden

tilefish component of the snapper-grouper fishery, thereby easing derby conditions, which have occurred in recent years.

Management Measures Contained in This Proposed Rule

This proposed rule would: establish a longline endorsement program for the commercial golden tilefish component of the snapper-grouper fishery; establish initial eligibility requirements for a golden tilefish longline endorsement; establish an appeals process; allocate the commercial golden tilefish ACL among gear groups; establish a procedure for the transfer of golden tilefish endorsements; modify the golden tilefish trip limits; and establish a trip limit for commercial fishermen who do not receive a golden tilefish longline endorsement. These actions are further addressed below.

Longline Endorsement Program for Golden Tilefish

This rule proposes to establish a longline endorsement program for the commercial golden tilefish component of the snapper-grouper fishery. The endorsement program would limit participation and reduce excess capacity in the fishery. This rule would establish eligibility criteria for the endorsement program based on an individual's golden tilefish landings using longline gear averaging at least 5,000 lb (2,268 kg), gutted weight, for the best 3 years within the period 2006 through 2011. In 2011, there were 753 Snapper-Grouper Unlimited Permits and trip-limited permits combined, and 28 vessels fished for

golden tilefish using longline gear. Establishment of this endorsement program would reduce the number of potential longline participants from 753 to 23.

Establish an Appeals Process

The rule proposes to establish an appeals process for fishermen who might have been incorrectly excluded from receiving a golden tilefish longline endorsement. The appeals process would provide an appeal period of 90 days, starting on the effective date of the final rule. The National Appeals Office, a division of NMFS' Office of Management and Budget within NOAA, would review, evaluate, and render recommendations on appeals to the Regional Administrator (RA). The RA would review, evaluate, and render a final decision on each appeal. Hardship arguments would not be considered. The RA would determine the outcome of appeals based on NMFS' logbooks. If NMFS' logbooks are not available, the RA may use state landings records. Appellants would have to submit NMFS' logbooks or state landings records to support their appeal.

Allocate Commercial Golden Tilefish ACL among Gear Groups

This rule proposes an allocation of the golden tilefish commercial ACL between the longline and hook-and-line components. Seventy-five percent of the ACL, or 405,971 lb (184,145 kg), gutted weight, would be allocated to the longline component and 25 percent of the ACL, or 135,324 lb (61,382 kg),

gutted weight, would be allocated to the hook-and-line component.

Allow Transfer of Golden Tilefish Endorsements

This rule would establish a procedure to transfer a golden tilefish endorsement to an individual or entity that holds or simultaneously obtains a South Atlantic Unlimited Snapper-Grouper Permit. To be transferred, a golden tilefish endorsement must be valid or renewable. Golden tilefish endorsements may be transferred independently from the South Atlantic Unlimited Snapper-Grouper Permit with which it is associated. Landings history would not be transferred with the endorsement. NMFS would attribute golden tilefish landings to the associated South Atlantic Unlimited Snapper-Grouper Permit regardless of whether the landings occurred before or after the endorsement was issued. Golden tilefish endorsements would not be renewed automatically with the South Atlantic Unlimited Snapper-Grouper Permit with which it is associated. The endorsement would be renewed separately from the permit on the Federal Permit Application for Vessels Fishing in the Exclusive Economic Zone (EEZ). The provision to allow the transfer of an endorsement would be effective upon the effective date of the final rule.

Modify the Golden Tilefish Trip Limits

Based on current regulations, at the start of the fishing year (January 1), the trip limit is 4,000 lb (1,814 kg), gutted weight, for the commercial sector. If 75 percent of the ACL is reached before September 1 of the fishing year, the trip limit is reduced to 300 lb (136 kg), gutted weight. The step-down trip limit was originally intended to allow hook-and-line fishermen access to golden tilefish in the fall. In recent years, a derby fishery has developed for golden tilefish and the ACL has been met so rapidly that the 300-lb (136-kg), gutted weight, trip limit has not been triggered. Therefore, the 300-lb (136-kg), gutted weight, trip limit is not having its intended effect of extending the fishing season. Moreover, having separate allocations and ACLs for longline and hook-and-line gear makes the 300-lb (136-kg), gutted weight, trip limit unnecessary. The amendment would eliminate the step-down trip limit and the commercial trip limit of 4,000 lb (1,814 kg), gutted weight, would remain. Hook-and-line fishermen would still be able to harvest golden tilefish under the hook-and-line ACL.

Establish a Trip Limit for Commercial Fishermen who do not
Receive a Golden Tilefish Longline Endorsement

This rule proposes to establish a trip limit of 500 lb (227 kg), gutted weight, for the golden tilefish component of the snapper-grouper fishery for commercial fishermen who do not

receive a longline endorsement. A vessel with a golden tilefish longline endorsement would not be eligible to fish under this trip limit with other gear (i.e., hook-and-line).

Other Changes Proposed in this Rule that are not Contained in Amendment 18B

Amendment 17B was approved by the Secretary of Commerce on December 21, 2010. The final rule for Amendment 17B to the FMP (75 FR 82280, December 30, 2012), implemented ACLs and accountability measures (AMs) for eight snapper-grouper species in the FMP that are undergoing overfishing, and for black grouper, which was recently assessed and determined to not be undergoing overfishing or overfished; modified management measures to limit total mortality of those species to the ACL; and added ACLs, annual catch targets (ACTs), and AMs to the list of management measures that may be amended via the framework process. In that final rule for Amendment 17B, NMFS inadvertently neglected to list all of the framework revisions from Amendment 17B in the regulatory text. NMFS did not include, in paragraph (f) of 50 CFR part 622.48, the entire list of the items that may be established or modified in accordance with the FMP's updated framework procedure. The addition of these items to the FMP's framework procedure has already been subject to public comment during the public comment period for Amendment 17B. The Notice of Availability for Amendment 17B

published on September 22, 2010 (75 FR 57734). These changes to paragraph (f) of 50 CFR part 622.48, were not included in the proposed or final rule for Amendment 17B, however, they were included in Amendment 17B. Thus, NMFS proposes to amend 50 CFR part 622.48, paragraph (f), to include the missing items from the list of the items that may be established or modified in accordance with the framework procedures in the FMP. This rule proposes to add the maximum sustainable yield proxy, optimum yield, a quota of zero, ACTs, maximum fishing mortality threshold, minimum stock size threshold, size limits, fishing year, and rebuilding plans to the list of items that can be established or modified in accordance with the framework procedure.

Additionally, on March 16, 2012, NMFS published the final rule to implement the Comprehensive Annual Catch Limit Amendment (Comprehensive ACL Amendment) to the Snapper-Grouper FMP, the Golden Crab Fishery of the South Atlantic Region FMP, the Dolphin and Wahoo Fishery off the Atlantic States FMP, and the Pelagic Sargassum Habitat of the South Atlantic Region FMP (77 FR 15916, March 16, 2012). In part, the Comprehensive ACL Amendment revised commercial AMs for many snapper-grouper species. During that revision, NMFS inadvertently failed to use language in the revised AMs similar to that contained in the quota closure provisions for South Atlantic snapper-grouper

species. The South Atlantic snapper-grouper closure provisions regarding bag and possession limits, specified at 622.43(a)(5), contain both commercial and charter vessel/headboats in this provision. NMFS included charter vessel/headboats in regulatory text implementing the affected commercial AMs; however, NMFS inadvertently did not also include the term "commercial" at the time. Therefore, NMFS proposes to revise the phrase "Federal charter vessel/headboat permit" to read "Federal commercial or charter vessel/headboat permit", specifically in 50 CFR 622.49, paragraphs (b)(4)(i)(A), (b)(7)(i)(A), (b)(8)(i)(A), (b)(9)(i)(A), (b)(10)(i)(A), (b)(13)(i)(A), (b)(14)(i)(A), (b)(15)(i)(A), (b)(16)(i)(A), (b)(17)(i)(A), (b)(19)(i)(A), (b)(20)(i)(A), (b)(21)(i)(A), (b)(23)(i)(A), (b)(24)(i)(A), (e)(1), (f)(1).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with Amendment 18B, the Magnuson-Stevens Act and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an IRFA for this rule, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C.603. The IRFA

describes the economic impact that this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the objectives of and legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. A copy of the full analysis is available from the NMFS (see ADDRESSES). A summary of the IRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified.

The only new reporting, record-keeping, or other compliance requirements that would result from this proposed rule would be the requirement to have a commercial golden tilefish longline endorsement to fish for golden tilefish in the South Atlantic EEZ using longline gear or possess golden tilefish on a vessel in the South Atlantic EEZ with longline gear aboard. The initial endorsement will be sent directly to those qualifying for the endorsement. Renewals and transfers of endorsements are subject to the same fees as permits. Because the endorsement would be received through completion of the normal permitting process, no special professional skills would be required to satisfy this new compliance requirement.

NMFS expects the proposed rule to directly affect commercial fishermen in the South Atlantic snapper-grouper

fishery. The Small Business Administration established size criteria for all major industry sectors in the U.S. including fish harvesters. A business involved in fish harvesting is classified as a small business if independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$4.0 million (NAICS code 114111, finfish fishing) for all of its affiliated operations worldwide.

During 2005-2011, a total of 142 hook-and-line vessels with valid permits to operate in the commercial snapper-grouper fishery landed golden tilefish. These vessels generated annual average dockside revenues of approximately \$69,000 (2010 dollars) from golden tilefish, or \$603,000 (2010 dollars) from all species, inclusive of golden tilefish, caught in the same trips as golden tilefish. On average, each of these vessels generated about \$4,246 (2010 dollars) in gross revenues. During the same period, a total of 43 longline vessels with valid permits to operate in the commercial snapper-grouper fishery landed golden tilefish. Their annual average revenues were about \$835,000 (2010 dollars) from golden tilefish, or \$1,218,000 (2010 dollars) from all species, inclusive of golden tilefish, caught in the same trips as golden tilefish. Each of these vessels, therefore, generated an average of approximately \$28,330 (2010 dollars) in gross revenues.

Based on revenue information, all commercial vessels affected by this proposed rule can be considered small entities.

NMFS expects the proposed rule to directly affect all federally permitted commercial vessels harvesting golden tilefish and for-hire vessels that operate in the South Atlantic snapper-grouper fishery. All directly affected entities have been determined, for the purpose of this analysis, to be small entities.

Therefore, NMFS determined that the proposed action would affect a substantial number of small entities.

Because NMFS determined all entities expected to be affected by the actions in this proposed rule are small entities, the issue of disproportional effects on small versus large entities does not arise in the present case.

Establishing a longline endorsement system would limit the expansion of capital and effort in the longline component of the commercial sector for golden tilefish. Because this component is by far the dominant component in the commercial harvest of golden tilefish, an endorsement system could extend the commercial fishing season, thereby providing the industry opportunities to remain profitable. However, unlike the case with a management system that assigns harvesting privileges to fishermen, an endorsement system would not eliminate the underlying incentive to "race to fish." With this incentive remaining intact, effort and capital stuffing (increasing vessel

capacity, speed or fishing accessories) would continue to increase over time and eventually shorten the fishing season.

Under the proposed criteria, 24 vessels that used longline gear during 2006-2011 would qualify for a longline endorsement; 19 vessels that used longline gear during the time period would not qualify for an endorsement. Qualifying vessels generated revenues of about \$788,000 (2010 dollars) annually from golden tilefish while non-qualifying vessels generated an average of about \$47,000 (2010 dollars) in annual revenues from golden tilefish. The decrease in revenues to non-qualifying vessels would be about 17 percent of their total revenues. Non-qualifying vessels could switch gear and recoup part of their losses; nonetheless, their short-term profits would still likely suffer. However, relative to the total profits of commercial vessels in the snapper-grouper fishery, revenue and profit reductions to non-qualifying vessels would not be significant. In terms of revenues, a loss of \$47,000 (2010 dollars) would be about 3 percent of total revenues by vessels landing golden tilefish and less than 1 percent of total revenues by all commercial vessels in the South Atlantic. Moreover, revenue and profit losses to non-qualifying vessels would likely be gained by qualifying vessels. Considering the fishing season closures in recent years, qualifying vessels would most likely harvest whatever is forgone by non-qualifying vessels. This would

increase the revenues and possibly the profits of qualifying vessels, and would decrease the profits of non-qualifying vessels. Whether this would increase overall industry profits cannot be ascertained based on available information. It is possible that short-term industry profits would increase or at least not dissipate quickly. With fewer participants in the longline component, and noting that the longline component is by far the dominant component in the commercial harvest of golden tilefish, the fishing season for the longline component could lengthen and thereby qualifying vessels could command better prices. These effects, however, would be transitory. The incentive to "race to fish" is still intact so that effort from qualifying vessels could increase in the medium- and long-term, eventually erasing any profit gains from establishing the endorsement.

Establishing an appeals process for fishermen initially excluded from the golden tilefish longline endorsement would provide opportunities for those legitimately qualified to receive their endorsement. Given the narrow basis for appeals (e.g., landings reported on NMFS logbook records or state landing records), only a limited number of appeals would likely be successful.

Establishing a 75-percent longline and 25-percent hook-and-line allocation of the golden tilefish commercial ACL would

ensure the continued presence of the hook-and-line component in the commercial harvest of golden tilefish. Relative to the baseline, this allocation ratio would redistribute the harvest of golden tilefish from the longline component to the hook-and-line component. This, in theory, would result in negative effects on the longline component and positive effects on the hook-and-line component. However, because the commercial quota is increased well above the baseline landings of both components, this allocation ratio would yield positive revenue effects to both components. Revenue gains would be \$302,000 (2010 dollars) to the entire hook-and-line component and \$271,000 (2010 dollars) to the entire longline component, or total revenue effects of about \$573,000 (2010 dollars) for the whole commercial sector. NMFS expects that these positive revenue effects would translate to positive profit effects on both components.

Allowing the transfer of golden tilefish longline endorsements between individuals or entities with South Atlantic Unlimited Snapper-Grouper Permits would open opportunities for increasing the value of the endorsement asset and for the more efficient operators to engage in the fishery. Such opportunities, however, would still be limited by the requirement that transfers of endorsements be made between individuals/entities possessing South Atlantic Snapper-Grouper

Unlimited Permits. These permits are under a limited entry program.

Eliminating the 300-lb (136-kg), gutted weight, commercial trip limit when 75 percent of the commercial ACL is taken would benefit longline vessels. This ratcheting down of the trip limit was intended to preserve the presence of the hook-and-line component, but is now unnecessary because the hook-and-line component has a separate allocation. Thus, this alternative would allow the longline component, whose trips would likely be unprofitable under a trip limit of 300 lb (136 kg), gutted weight, to efficiently use its capacity and maximize its revenues and likely profits as well.

Establishing a 500-lb (223-kg), gutted weight, trip limit for commercial fishermen who would not receive a longline endorsement would affect 14 out of 249 trips based on average 2005-2011 data. This trip limit would reduce per trip landings, and it is also expected to reduce total landings at least in its first year of implementation. Total landings would be reduced by about 24,000 lb (10,886 kg), gutted weight, worth \$69,000 (2010 dollars). The effects of a trip limit are generally temporary; vessels incurring revenue reductions due to a trip limit could recoup their losses by taking more trips so long as those trips remain profitable. Considering the relatively few

trips that would be affected, this trip limit would likely not be too constraining as to reduce the sector's overall profits.

The following discussion analyzes the alternatives that were not chosen as preferred by the Council.

Two alternatives, including the preferred alternative that would establish an endorsement system, were considered for limiting participation in the golden tilefish component of the snapper-grouper fishery through an endorsement system. The only other alternative is the no action alternative. This would not limit effort in the commercial harvest of golden tilefish and thus would not address the evolving derby (race to fish) in the commercial sector.

Two alternatives were considered for establishing eligibility requirements for the longline endorsement. The first alternative, the no action alternative, would make the endorsement system ineffective in addressing increasing effort in the commercial sector because everyone with valid permits could receive an endorsement. The second alternative consists of 9 sub-alternatives, including the preferred sub-alternative, with each providing for an endorsement eligibility based on minimum amount of golden tilefish landings using longline gear during a given period. The first sub-alternative would require a minimum of 2,000 lb (907 kg), gutted weight, total longline landings during 2006-2008. The second sub-alternative would

require a minimum of 5,000 lb (2,268 kg), gutted weight, total longline landings during 2006-2008. The third sub-alternative would require a minimum of 5,000 lb (2,268 kg), gutted weight, average longline landings during 2006-2008. The fourth sub-alternative would require a minimum of 5,000 lb (2,268 kg), gutted weight, average longline landings during 2007-2009. The fifth sub-alternative would require a minimum of 10,000 lb (4,536 kg), gutted weight, average longline landings during 2007-2009. The sixth sub-alternative would require a minimum of 5,000 lb (2,268 kg), gutted weight, average longline landings for the best 3 years during 2006-2010. The seventh sub-alternative would require a minimum of 5,000 lb (2,268 kg), gutted weight, average longline landings for the best 3 years during 2006-2011. The eighth sub-alternative would require a minimum of 10,000 lb (4,536 kg), gutted weight, average longline landings for the best 3 years during 2006-2011. Each of these sub-alternatives would qualify fewer entities for the endorsement and thus would result in greater forgone revenues than the preferred sub-alternative.

Three alternatives, including the preferred alternative, were considered for establishing an appeals process for fishermen initially excluded from the endorsement program. The first alternative, the no action alternative, would not establish an appeals process. This alternative has the

potential to unduly penalize participants, mainly due to errors in data reporting or recording. The second alternative is the same as the preferred alternative, except it would additionally establish a special board composed of state directors/designees that would review, evaluate, and make individual recommendations to the RA. This alternative would introduce an additional administrative burden that may not improve the appeals process considering that the only major issue subject to appeals is the landings record.

Four alternatives, including the preferred alternative, were considered for allocating the commercial golden tilefish ACL among gear groups. The first alternative, the no action alternative, would not specify an allocation among gear groups. With this alternative, the already diminished share of the hook-and-line component in the harvest of golden tilefish could further decline. Consequently, further reductions in the component's revenues and profits could occur, negating the Council's intent to minimize negative economic impacts on this component. The second alternative would establish an 85 percent longline and 15 percent hook-and-line allocation, and the third alternative, a 90 percent longline and 10 percent hook-and-line allocation. These two other alternatives would favor the longline component, but would allow the hook-and-line component to continue its operations. Similar to the preferred

alternative, the effects of these alternatives on overall industry profits cannot be determined based on available information.

Two alternatives, including the preferred alternative, were considered for allowing transferability of longline endorsements. The first alternative, the no action alternative, would not allow transfers of endorsements. This alternative would limit the value of the endorsement asset and hinder the participation of potentially more efficient operators. The second alternative (preferred) includes two sub-alternatives, of which one is the preferred sub-alternative that would allow transfers of endorsements upon implementation of the program. The other sub-alternative would not allow transfers of endorsements during the first 2 years of the program. This sub-alternative would mainly delay the entrance of more efficient operators and the generation of higher-valued endorsement assets.

Three alternatives, including the preferred alternative, were considered for modifying the golden tilefish trip limit. The first alternative, the no action alternative, would retain the 4,000-lb (1,814-kg), gutted weight, trip limit that would be reduced to 300 lb (136 kg), gutted weight, if 75 percent of the commercial ACL is reached by September 1. The trip limit reduction to 300 lb (136 kg), gutted weight, which was partly

established to preserve the presence of the hook-and-line component, is no longer necessary with the establishment of a separate allocation for each gear group. The second alternative would prohibit longline fishing for golden tilefish when 75 percent of the commercial ACL is reached. This alternative is not necessary with the establishment of a separate allocation for each gear group. In addition, this would constrain the profits longline vessels could derive from the harvest of golden tilefish.

Six alternatives, including the preferred alternative, were considered for establishing a trip limit for commercial fishermen who do not receive a longline endorsement. The first alternative, the no action alternative, would retain the 4,000-lb (1,814-kg), gutted weight, trip limit that would be reduced to 300 lb (136 kg), gutted weight, when 75 percent of the commercial ACL is reached. The second alternative would establish a 300-lb (136-kg), gutted weight, trip limit; the third alternative, a 400-lb (181-kg), gutted weight, trip limit; the fourth, a 100-lb (45-kg), gutted weight, trip limit; and, the fifth alternative, a 200-lb (91-kg), gutted weight, trip limit. Relative to the preferred alternative, all these other trip limits would be more restrictive and thus would likely result in larger reductions in vessel revenues and profits per trip.

In addition to the actions considered in Amendment 18B included in this proposed rule, this proposed rule would make additional changes to the regulatory text in 50 CFR parts 622.48 and 622.49. These proposed changes are described under the heading "Other Changes Proposed in this Rule that are not Contained in Amendment 18B" in the preamble of this proposed rule. These changes are either clerical or simply clarify language associated with prior regulatory action. As a result, none of these proposed changes in the regulatory text would be expected to result in any reduction in profits to any small entities.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection-of-information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains collection-of-information requirements subject to the PRA. NMFS estimates the requirement for South Atlantic Unlimited Snapper-Grouper Permit holders to submit their logbook information if they are appealing their landings data for a golden tilefish longline endorsement to average 2 hours per response. NMFS estimates the requirement to

check boxes on the Federal Permit Application Form for a new endorsement, renewal, or transfer of the golden tilefish endorsement to average 1 minute per response. These estimates of the public reporting burden include the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection-of-information.

These requirements have been submitted to OMB for approval. NMFS seeks public comment regarding: Whether this proposed collection-of-information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection-of-information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding the burden estimate or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see ADDRESSES).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and
recordkeeping requirements, Virgin Islands.

Dated: December 13, 2012.

Alan D. Risenhoover, Director, Office of Sustainable
Fisheries, performing the functions and duties of the
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is
proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read
as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.4, paragraph (a)(2)(vi) is revised, paragraph
(a)(2)(xvi) is added, and the first sentence in paragraph (g)(1)
is revised to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(vi) South Atlantic snapper-grouper. For a person aboard a vessel to be eligible for exemption from the bag limits for South Atlantic snapper-grouper in or from the South Atlantic EEZ, to sell South Atlantic snapper-grouper in or from the South Atlantic EEZ, to engage in the directed fishery for golden tilefish in the South Atlantic EEZ, to use a longline to fish for South Atlantic snapper-grouper in the South Atlantic EEZ, or to use a sea bass pot in the South Atlantic EEZ between 35°15.19' N. lat. (due east of Cape Hatteras Light, NC) and 28°35.1' N. lat. (due east of the NASA Vehicle Assembly Building, Cape Canaveral, FL), either a commercial vessel permit for South Atlantic Unlimited Snapper-Grouper Permit or a trip-limited permit for South Atlantic snapper-grouper must have been issued to the vessel and must be on board. A vessel with a trip-limited commercial permit is limited on any trip to 225 lb (102.1 kg) of snapper-grouper. See § 622.18 for limitations on the use, transfer, and renewal of a commercial vessel permit for South Atlantic snapper-grouper.

* * * * *

(xvi) South Atlantic golden tilefish longline endorsement. For a person aboard a vessel, for which a valid commercial vessel permit for South Atlantic snapper-grouper unlimited has

been issued, to fish for or possess golden tilefish in the South Atlantic EEZ using longline gear, a South Atlantic golden tilefish longline endorsement must have been issued to the vessel and must be on board. A permit or endorsement that has expired is not valid. This endorsement must be renewed annually and may only be renewed if the associated vessel has a valid commercial vessel permit for South Atlantic snapper-grouper unlimited or if the endorsement and associated permit are being concurrently renewed. The RA will not reissue this endorsement if the endorsement is revoked or if the RA does not receive a complete application for renewal of the endorsement within 1 year after the endorsement's expiration date.

(A) Initial eligibility. To be eligible for an initial South Atlantic golden tilefish longline endorsement, a person must have been issued and must possess a valid or renewable commercial vessel permit for South Atlantic snapper-grouper unlimited that has golden tilefish landings using longline gear averaging at least 5,000 lb (2,268 kg), gutted weight, over the best 3 years within the period 2006 - 2011. Excluded from this eligibility, are trip-limited permits (South Atlantic snapper-grouper permits that have a 225-lb (102.1-kg) limit of snapper-grouper). NMFS will attribute all applicable golden tilefish landings associated with a current South Atlantic snapper-grouper unlimited permit for the applicable landings history, to

the current permit owner, including golden tilefish landings reported by a person(s) who held the permit prior to the current permit owner. Only legal landings reported in compliance with applicable state and Federal regulations are acceptable.

(B) Initial issuance. On or about [date of publication of final rule in the FEDERAL REGISTER], the RA will mail each eligible permittee a golden tilefish longline endorsement via certified mail, return receipt requested, to the permittee's address of record as listed in NMFS' permit files. An eligible permittee who does not receive an endorsement from the RA, must contact the RA no later than [date 30 days after date of publication of final rule in the FEDERAL REGISTER], to clarify his/her endorsement status. A permittee who is denied an endorsement based on the RA's initial determination of eligibility and who disagrees with that determination may appeal to the RA.

(C) Procedure for appealing golden tilefish longline endorsement eligibility and/or landings information. The only items subject to appeal are initial eligibility for a golden tilefish longline endorsement based on ownership of a qualifying snapper-grouper permit, the accuracy of the amount of landings, and the correct assignment of landings to the permittee. Appeals based on hardship factors will not be considered. Appeals must be submitted to the RA postmarked no later than

[date 120 days after publication of final rule in the FEDERAL REGISTER], and must contain documentation supporting the basis for the appeal. The National Appeals Office will review, evaluate, and render recommendations on appeals to the RA. The RA will then review each appeal, render a final decision on each appeal, and advise the appellant of the final NMFS decision.

(1) Eligibility appeals. NMFS' records of snapper-grouper permits are the sole basis for determining ownership of such permits. A person who believes he/she meets the permit eligibility criteria based on ownership of a vessel under a different name, for example, as a result of ownership changes from individual to corporate or vice versa, must document his or her continuity of ownership and must submit that information with their appeal.

(2) Landings appeals. Determinations of appeals regarding landings data for 2006 through 2011 will be based on NMFS' logbook records, submitted on or before October 31, 2012. If NMFS' logbooks are not available, the RA may use state landings records or data for the period 2006 through 2011 that were submitted in compliance with applicable Federal and state regulations on or before October 31, 2012.

(D) Transferability. A valid or renewable golden tilefish endorsement may be transferred between any two entities that hold, or simultaneously obtain, a valid South Atlantic snapper-

grouper unlimited permit. An endorsement may be transferred independently from the South Atlantic snapper-grouper unlimited permit. NMFS will attribute golden tilefish landings to the associated South Atlantic Unlimited Snapper-Grouper Permit regardless of whether the landings occurred before or after the endorsement was issued. Only legal landings reported in compliance with applicable state and Federal regulations are acceptable.

(E) Fees. No fee applies to the initial issuance of a golden tilefish longline endorsement. NMFS charges a fee for each renewal or replacement or transfer of such endorsement and calculates the amount of each fee in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The handbook is available from the RA. The appropriate fee must accompany each application for renewal or replacement or transfer.

* * * * *

(g) * * *

(1) * * * A vessel permit, license, or endorsement or a dealer permit or endorsement issued under this section is not transferable or assignable, except as provided in paragraph (m) of this section for a commercial vessel permit for Gulf reef fish, in paragraph (o) of this section for a king mackerel

gillnet permit, in paragraph (q) of this section for a commercial vessel permit for king mackerel, in paragraph (r) of this section for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, in paragraph (s) of this section for a commercial vessel moratorium permit for Gulf shrimp, in § 622.17(c) for a commercial vessel permit for golden crab, in § 622.18(b) for a commercial vessel permit for South Atlantic snapper-grouper, in § 622.19(b) for a commercial vessel permit for South Atlantic rock shrimp, in § 622.4(a)(2)(xiv)(D) for an eastern Gulf reef fish bottom longline endorsement, in § 622.4(a)(2)(xv)(D) for a South Atlantic black sea bass pot endorsement, in § 622.4(a)(2)(xvi)(D) for a South Atlantic golden tilefish longline endorsement. * * *

* * * * *

3. In § 622.41, paragraph (d)(6) is revised to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(d) * * *

(6) Longline species limitation. A vessel that has on board a valid Federal commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the EEZ on a trip with a longline on board, may possess only the following

South Atlantic snapper-grouper: snowy grouper, yellowedge grouper, misty grouper, golden tilefish, blueline tilefish, and sand tilefish. See § 622.4(a)(2)(xvi) for the requirement to possess a valid South Atlantic golden tilefish longline endorsement to fish for golden tilefish in the South Atlantic EEZ using longline gear. For the purpose of this paragraph, a vessel is considered to have a longline on board when a power-operated longline hauler, a cable of diameter suitable for use in the longline fishery on any reel, and gangions are on board. Removal of any one of these three elements constitutes removal of a longline.

* * * * *

4. In § 622.42, paragraph (e)(2) is revised to read as follows:

§ 622.42 Quotas.

* * * * *

(e) * * *

(2) Golden tilefish. (i) Longline and hook-and-line components combined--541,295 lb (245,527 kg).

(ii) Hook-and-line component--135,324 lb (61,382 kg).

(iii) Longline component--405,971 lb (184,145 kg).

* * * * *

5. In § 622.44, paragraph (c)(2) is revised to read as follows:

§ 622.44 Commercial trip limits.

* * * * *

(c) * * *

(2) Golden tilefish--(i) South Atlantic snapper-grouper unlimited permit holders, with a longline endorsement, using longline gear. Until the quota specified in § 622.42(e)(2)(iii) is reached, 4,000 lb (1,814 kg), gutted weight; 4,480 lb (2,032 kg), round weight.

(ii) South Atlantic snapper-grouper unlimited permit holders, without a longline endorsement, using hook-and-line gear. Until the quota specified in § 622.42(e)(2)(ii) is reached, the trip limit for golden tilefish is 500 lb (227 kg), gutted weight; 560 lb (254 kg), round weight. Vessels with golden tilefish longline endorsements are not eligible to fish for golden tilefish using hook-and-line gear under this 500-lb (227-kg) trip limit.

(iii) See § 622.43(a)(5) for the limitations regarding golden tilefish after the applicable commercial quota is reached.

* * * * *

6. In § 622.48, paragraph (f) is revised to read as follows:

§ 622.48 Adjustment of management measures

* * * * *

(f) South Atlantic snapper-grouper and wreckfish. Biomass levels, age-structured analyses, target dates for rebuilding overfished species, MSY (or proxy), OY, ABC, TAC, quotas (including a quota of zero), annual catch limits (ACLs), annual catch targets (ACTs), AMs, maximum fishing mortality threshold (MFMT), minimum stock size threshold (MSST), trip limits, bag limits, size limits, gear restrictions (ranging from regulation to complete prohibition), seasonal or area closures, fishing year, rebuilding plans, definitions of essential fish habitat, essential fish habitat, essential fish habitat HAPCs or Coral HAPCs, and restrictions on gear and fishing activities applicable in essential fish habitat and essential fish habitat HAPCs.

* * * * *

7. In § 622.49, paragraph (b)(1)(i) is revised and the last sentence of paragraphs (b)(4)(i)(A), (b)(7)(i)(A), (b)(8)(i)(A), (b)(9)(i)(A), (b)(10)(i)(A), (b)(13)(i)(A), (b)(14)(i)(A), (b)(15)(i)(A), (b)(16)(i)(A), (b)(17)(i)(A), (b)(19)(i)(A), (b)(20)(i)(A), (b)(21)(i)(A), (b)(23)(i)(A), (b)(24)(i)(A), (e)(1), (f)(1) are revised to read as follows:

§ 622.49 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(b) * * *

(1) * * *

(i) Commercial sector--(A) Hook-and-line component. If commercial landings, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.42(e)(2)(ii), the AA will file a notification with the Office of the Federal Register to close the hook-and-line component of the commercial sector for the remainder of the fishing year.

(B) Longline component. If commercial landings, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.42(e)(2)(iii), the AA will file a notification with the Office of the Federal Register to close the longline component of the commercial sector for the remainder of the fishing year. After the commercial ACL for the longline component is reached or projected to be reached, golden tilefish may not be fished for or possessed by a vessel with a golden tilefish longline endorsement.

* * * * *

(4) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic

snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(6) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(7) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(8) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal

commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(9) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(10) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(12) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(13) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(14) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(15) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(16) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(17) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(19) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(20) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(21) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(23) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(24) * * *

(i) * * *

(A) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(e) * * *

(1) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

(f) * * *

(1) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

* * * * *

[FR Doc. 2012-30566 Filed 12/18/2012 at 8:45 am; Publication Date: 12/19/2012]